

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code sections 307.10, 307.12 and 321.252, the Iowa Department of Transportation hereby gives Notice of Intended Action to amend Chapter 119, "Tourist-Oriented Directional Signing," Iowa Administrative Code.

The proposed changes will ease restrictions on small businesses interested in qualifying for the Tourist-Oriented Directional Signing program. The changes:

- Relax restrictions so that businesses within towns with a population between 2500 and 5000 can qualify for the program. Currently, the program is offered to rural areas and towns with a population of 2500 or less.
- Relax restrictions so that businesses within ten miles of the intersection on the primary highway where the signs are to be placed can qualify in all subcategories. Currently, the limit is set at five miles for two of the four subcategories.
- Relax restrictions so that a business can have both a tourist-oriented directional sign and a private directional sign within a mile of each other along a primary route. This is currently prohibited.
- Relax restrictions so that vehicle service and repair facilities are required to maintain hours of operation of at least eight hours per day and five days per week in order to qualify for the program. Current hours are set at eight hours per day and six days per week.

Other changes were made to eliminate redundancies, improve consistency in word usage, and correct nondiscrimination language and an agency name.

Any person or agency may submit written comments concerning these proposed amendments or may submit a written request to make an oral presentation. The comments or request shall:

1. Include the name, address, and telephone number of the person or agency authoring the comments or request.
2. Reference the number and title of the proposed rule, as given in this Notice, that is the subject of the comments or request.
3. Indicate the general content of a requested oral presentation.
4. Be addressed to Tracy George, Iowa Department of Transportation, Office of Policy and Legislative Services, 800 Lincoln Way, Ames, Iowa 50010; e-mail tracy.george@dot.iowa.gov.
5. Be received by the Office of Policy and Legislative Services no later than October 8, 2013.

A meeting to hear requested oral presentations is scheduled for Thursday, October 10, 2013, at 1 p.m. at the Administration Building, First Floor South Conference Room, Department of Transportation, 800 Lincoln Way, Ames, Iowa.

The meeting will be canceled without further notice if no oral presentation is requested.

The proposed amendments may have an impact on small business. A request for a regulatory analysis pursuant to Iowa Code section 17A.4A must be submitted to the Office of Policy and Legislative Services at the address listed in this Notice by October 21, 2013.

These rules do not provide for waivers. Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 321.252.

The following amendments are proposed.

ITEM 1. Amend subrule 119.2(2) as follows:

119.2(2) *Spacing and location.*

a. No change.

b. Tourist-oriented directional signing shall be installed in advance of the intersection where the motorist leaves the primary highway system to travel to the activity or site. However, tourist-oriented directional signs may be placed ~~within the maximum travel distance~~ on a higher classified highway to direct motorists onto a lower classified highway, or on a greater traveled highway to direct motorists onto a lesser traveled highway.

c. and *d.* No change.

e. Tourist-oriented directional signing shall not be placed within the urban area as established by the U.S. Census Bureau of an incorporated municipality with a population of 5000 or more.

ITEM 2. Amend rule 761—119.3(321) as follows:

761—119.3(321) General eligibility requirements for an activity or site. This rule describes the general requirements which an individual activity or site must meet to qualify for tourist-oriented directional signing.

~~**119.3(1) Significant interest to the traveling public.** An activity or site must be of significant interest to the traveling public. This means that a major portion of the activity's or site's products or services is tourist- or motorist-oriented.~~

~~**119.3(2) 119.3(1) Hours.** The activity or site shall be open to the general public during regular and reasonable hours and not by appointment, reservation or membership only.~~

a. and *b.* No change.

~~**119.3(3) 119.3(2) Building or area.** The activity shall be conducted in an appropriate area or in a building appropriately designed or well-suited for the purpose.~~

a. and *b.* No change.

~~**119.3(4) 119.3(3) Location of activity or site.** The activity or site shall be located:~~

~~*a.* In an unincorporated area or inside the corporate limits of a city with a population of 2500 or less. Within ten miles of the intersection on the primary highway where the tourist-oriented directional sign will be placed.~~

~~*b.* Outside the corporate limits of a city with a population between 2500 and 5000. However, tourist-oriented directional signing for the activity or site may be located within the corporate limits.~~

~~*e. b.* Outside the urban area, as established by the U.S. Census Bureau, of a city an incorporated municipality with a population of 5000 or more. However, tourist-oriented directional signing for the activity or site may be located within the urban area or corporate limits.~~

~~**119.3(5) 119.3(4) Signing restrictions.** An activity or site does not qualify for a tourist-oriented directional sign if:~~

~~*a.* The activity or site is identified by an off right-of-way directional sign, as authorized in 761—Chapter 120, that is within one mile, is on the same route, and is facing the same direction as the proposed tourist-oriented directional sign.~~

~~*b. a.* The activity or site or an on-premises sign advertising the activity or site is readily recognizable from the primary highway far enough ahead of the entrance to allow the motorist time to safely make the turn into the entrance.~~

~~*e. b.* An advertising device which serves the activity or site is erected or maintained in violation of Iowa Code chapter 306B; Iowa Code chapter 306C, division II; or other statutes or administrative rules regulating outdoor advertising.~~

~~**119.3(6) 119.3(5) Nondiscrimination.** The activity or site shall comply with all applicable laws concerning public accommodations without regard to age, race, religion, creed, color, age, sex, sexual orientation, gender identity, or national origin, religion or disability.~~

ITEM 3. Amend rule 761—119.4(321) as follows:

761—119.4(321) Specific eligibility requirements for the type of activity or site. This rule describes the types of activities or sites that may qualify for tourist-oriented directional signing. Within each type, this rule also describes the specific requirements that an individual activity or site must meet to qualify for tourist-oriented directional signing. These requirements are in addition to those found in rule 761—119.3(321).

119.4(1) Motorist service.

a. No change.

b. An activity or a site providing a motorist service must:

(1) Be open a minimum of eight hours a day, six days a week, except for vehicle services or repair facilities, which shall be open a minimum of eight hours a day, five days a week.

(2) No change.

~~(3) Be located within five miles of the primary highway.~~

119.4(2) Tourist attraction.

a. and b. No change.

c. A tourist attraction must:

(1) and (2) No change.

~~(3) Be located within five miles of the primary highway or within ten miles if open a minimum of eight hours a day, seven days a week.~~

119.4(3) Agricultural business activity.

a. No change.

b. “Significant interest” means the agricultural business activity does one of the following:

(1) No change.

(2) Offers products which are of interest to the general traveling public and can be purchased from the site.

(3) No change.

c. An agricultural business activity must:

(1) and (2) No change.

~~(3) Be located within ten miles of the primary highway.~~

119.4(4) Other commercial activity.

a. No change.

b. A nonagricultural commercial activity must:

(1) and (2) No change.

~~(3) Be located within five miles of the primary highway.~~

ITEM 4. Amend subrule 119.5(3) as follows:

119.5(3) The tourist signing committee consists of representatives from the ~~department of economic development~~ economic development authority, the department of transportation, the department of agriculture and land stewardship, the department of natural resources, the department of cultural affairs, the Travel Federation of Iowa, and the Outdoor Advertising Association of Iowa. The committee’s responsibility is to approve or deny applications.